# COURTIEWS



# Litigants Without Lawyers Find Assistance at Courts

BY JANET BYRON

When the Ventura County Superior and Municipal Coordinated Courts hosted their first "pro per" family law clinic in late 1996, optimistic staff hoped at least six people would show up.

"We got 59 the first night," says Florence Prushan, the Ventura courts' assistant executive officer. The weekly clinics quickly drew more than a hundred pro per litigants—people attempting to navigate the family law courts without the assistance of a lawyer.

Since then, the courts' stateof-the-art program has guided pro pers through the legal system with two family law clinics and the Ventura Courts Self-Help Legal Access Center for nonfamily matters.

Pro pers were taking up more and more of the courts' time, Prushan explains. "Judges were sitting on the bench telling people how to fill out forms. . . . No matter how late you left, the family law judges' cars were still in the garage."

## **GROWING NUMBERS**

While the numbers vary from county to county in California,

the numbers of persons filing cases in family law matters without the assistance of attorneys is estimated to be 65 percent statewide and is as high as 90 percent in some counties.

A major study of Americans' legal needs by the American Bar Association (ABA) found that approximately half of low- and moderate-income households are facing one or more situations that could be addressed by the system of civil justice. The "Comprehensive Legal Needs Survey" conducted by the ABA's Consortium on Legal Services and the Public in 1994—the first comprehensive study of legal needs in nearly 20 years-revealed telling results. Interviews with 1,782 low-income and 1,305 moderateincome households indicated that low-income respondentsbecause of a sense that legal assistance will not help and a fear of the costs-do not turn to the justice system. Moderate-income respondents are more likely to dismiss the matter as not all that serious and to think they can deal with it on their own. Interestingly, however, both low- and moderate-income households say they are more likely to be sat-

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At the Ventura Courts Self-Help Legal Access Center and two proper clinics, proper litigants get nonlegal advice from full-time paid attorneys and staff assisted by volunteer law students, paralegals, attorneys, and court staff, who also review litigants' paperwork, prepare them for the courtroom, and refer them to related services such as pro bono or legal aid programs. *Photo: Tina L. Rasnow.* 

The judiciary
is helping to
demystify the legal
system for pro pers
and demonstrating
that economic
status should not
affect their access
to the courts.

# Task Force on Quality Of Justice Is Appointed

Studies to Look at Impact of Private Judging, ADR; Retention of Quality Judges

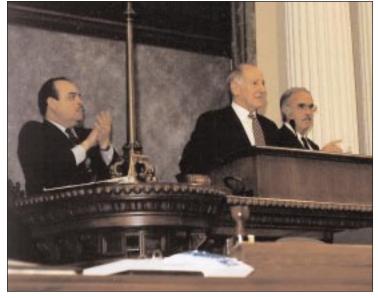
The impact on the judicial system of the developing trend toward private judging and court-affiliated alternative dispute resolution (ADR) and the effect of many judges' choosing to leave the bench to join that movement has prompted the creation of the statewide Judicial Council Task Force on the Quality of Justice.

Appointed by Chief Justice Ronald M. George, the task force will examine (1) how private judging and court-affiliated ADR services affect state courts, litigants, and the public and (2) how the judicial system can attract and retain highly qualified judges to serve full careers on the bench.

"The way we address these important issues will have a tremendous impact on the quality of justice, the public's access to justice, and the public's confidence in our judicial system for many years to come," said the Chief Justice in naming the panel.

The task force will consist of two subcommittees—the Subcommittee on the Quality of Judicial Service and the Subcommittee on Alternative Dispute Resolution and the Judicial System. Both subcommittees have been asked to complete interim reports with tentative recommendations by November 1,

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Chief Justice Ronald M. George, flanked by Assembly Speaker Cruz M. Bustamante, left, and Senate President Pro Tem John L. Burton, delivers the "State of the Judiciary" address to a joint session of the Legislature on February 23. For excerpts from the Chief Justice's speech, see page 2. *Photo: Maggie McGurk Photography.* 

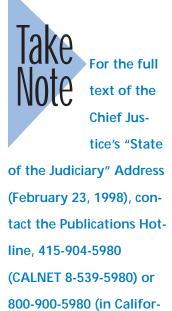
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Chief Justice Ronald M. George



nia), or visit the Judicial

**Branch of California Web** 

site, www.courtinfo.ca.gov.

#### MESSAGE FROM THE CHIEF JUSTICE

## Following Funding Reform, Focus Is on Facilities, Juries

The following are excerpts from the "State of the Judiciary" Address delivered by Chief Justice Ronald M. George to a joint session of the state Legislature on February 23 in Sacramento:

#### **FUNDING REFORM ACHIEVED**

"The enactment of the Trial Court Funding Act in the final moments of last year's legislative session inaugurated a fundamental alteration in the structure of the judicial branch. It constitutes one of the most important reforms for the California courts this century.

"Your efforts have made it possible for the judicial branch to look forward to the next century confident that a stable and adequate source of funding will enable us to provide fair and accessible justice for all Californians. The strong leadership of Senator Lockyer, Assembly Member Escutia, and Minority Leader Pringle guided this historic change. But momentous policy changes such as these require the prolonged efforts of many. In this case, it was a team effort in which many of you played roles that were essential to attaining this important goal. On behalf of the judicial branch and those we serve, I congratulate you and thank you for your farsighted and public-spirited action. . . "

#### **COURT VISITS ENLIGHTENING**

"I completed my journeys [to the state's 58 counties] last August. . . .

"There are two main impressions from these visits that have stayed with me and that I want to share with you. First, the history of inadequate and uncertain funding all too often has substantially hobbled the ability of courts to serve the public at the level it deserves. My visits heightened my resolve to work unceasingly to make adequate and stable state funding a reality and—now that this top priority has been achieved—to ensure that it is implemented in a way that fulfills its promise. We must work together to provide the necessary resources for California's courts to provide the finest administration of justice necessary to protect and serve the public.

"Second, and perhaps more importantly, I learned from my meetings that, despite significant barriers and challenges, the creativity, dedication, and commitment of those who serve in the judicial branch has been and remains our most valuable asset. It is with great pride that I assure you that these individuals—whether from tiny counties like Alpine with only one superior court judge and one municipal court judge, to enormous Los Angeles with hundreds of judicial officers—stand ready, willing, and able to make the most of the opportunities available to them in serving the public. . . . "

## IMPROVING FACILITIES

"The public deserves not only to be safe, but also to see its business transacted in a setting that comports with the importance that the proceedings bear to the lives of so many individuals. The public deserves courthouses in which access to the effective, orderly administration of justice is a given, not a challenge.

"AB 233, the bill creating the state funding plan, provides for a task force to survey current courthouse facilities and recommend necessary improvements and additions. I anticipate—from my personal observations—that this task force will discover that these needs are great. Basic facilities have been neglected to an extent that many courts are severely hindered in their ability to administer justice. . . . "

## **CARING FOR JURORS**

"The pervasive message too often delivered is that we neither respect the contributions of jurors, nor value their time. . . .

"A variety of measures to increase and improve the level of participation by our citizens in jury duty already are being explored, but more action on our part is needed. . . .

"One improvement that courts cannot achieve without your assistance involves increasing juror pay from the measly statutory \$5 per day now available—a low among the states—to a more meaningful figure. Other steps urged by the council, such as providing reimbursement for child or dependent care if necessary to enable the juror to serve, paying adequately for meals, parking, and transportation, or as San Diego and Stanislaus Counties already have done, arranging with local mass transportation providers to offer free service to and from the courthouse to anyone who displays juror identification, can have a tremendous impact by reinforcing for the public the fact that we in government consider jury service to be an important public duty. . . .

"I urge you to consider providing adequate funds and authorization to ensure that our jury system becomes more representative of the people of our state, treats those who come to serve with respect, and ultimately enhances the public's confidence in our entire system of government...."

#### **LANGUAGE DEMANDS**

"Adequate court interpreter services are fundamental to providing access to the courts and crucial to the integrity of judicial proceedings. Basic comprehension of the system that judges your fate is fundamental to our notion of justice. But in many counties, courts are stymied by the lack of available, qualified interpreters and consider this to be their number one problem.

"We have requested funds through a deficiency appropriation to cover the cost of growth in interpreter services this year and have asked for further funding for next year's anticipated growth and to permit a much deserved raise in rates that will make them more competitive with what is paid for interpreter services in the federal courts in this state. Let's make use of our increasingly multicultural society and attract young people into this vital profession. . . . "

#### **TECHNOLOGICAL NEEDS**

"In some locations, modern technology is a fact of life. In others, it is a distant dream.

"The inconsistent development of data systems throughout the state frequently makes it impossible for courts to communicate within their own courthouse walls, with other courts, with the Judicial Council, with other public safety agencies, or with the public. The judicial branch often finds itself hampered in its planning process, and in assisting your legislative analyst and the Governor's Finance Department in their planning efforts, by our inability to provide you with meaningful caseload data.

"Changes are under way to help cure this major barrier to effective planning and to responsive access for those we serve. A Judicial Council task force on technology is developing uniform data standards to improve our ability to collect information and to communicate among different systems. Techniques such as document-scanning and creating records on computer disks will facilitate case processing at every level. . . . "

## **REACHING OUT**

"The courts have realized the importance of ongoing dialogue with our sister branches of government and with the public. A Judicial Council Task Force on Court/Community Outreach is exploring ways for courts to communicate more effectively with the public. . . .

"The judicial branch has been a leader in studying problems arising from bias based on gender, ethnicity, race, sexual orientation, and disability—undertaking these studies at its own initiative. Not only have we had task forces studying these issues, but the council has a permanent Access and Fairness Advisory Committee committed to learning more about these matters and providing the means to ensure that all Californians receive fair and equal access to our courts. We have focused on implementing the recommendations of our task forces so their reports do not merely gather dust on the shelf. . . . "

## INTERBRANCH COMMUNICATION

"Improved communication among our branches in recent years has contributed to the enactment of many additional measures that are of particular importance to the judicial branch. Assembly Bill 195, effective in January of 1997, made substantial changes in the procedure for certification of the record in death penalty appeals. This important bill by Assembly Member Bill Morrow is helping attack a root cause of delay in the processing of automatic appeals from death penalty judgments—the second of my priorities after trial court funding. . . .

Continued on page 3

## Chief's Message Continued from page 2

"In the last legislative session, you and the Governor adopted a measure that will help solve a problem that has proved most intractable and troubling: providing counsel for those under sentence of death. More than 160 individuals remain on death row without legal representation and therefore with cases that cannot be processed. . . .

"Senate Bill 513, authored by Senator Lockyer, will make a difference. By increasing the pool of attorneys available to handle these matters and enhancing their compensation, the bill directly addresses some of the impediments to processing death penalty appeals in a timely fashion. . . . "

#### JUDGESHIPS, COORDINATION

"Another area in which you recently have been responsive is in providing the first new judgeships in almost 10 years. In addition to the new judgeships created in 1996, 40 new trial court positions were authorized last year but remain to be funded this year. Filling these positions is a vital step toward improving the administration of justice.

"The fact that the courts have been able to stay as current as they have without much in the way of added resources during the past several years can be credited to their ability to break free of entrenched tradition and practice and adapt to current circumstances. I refer specifically to the tremendous progress that our municipal and superior courts have made toward coordinating their use of all available administrative and judicial resources under existing statutes and court rules adopted by the Judicial Council. . . . "

#### PRIVATE VS. PUBLIC

"One critical area for the courts that you can expect to hear me discuss in the years ahead is the tension developing between private judging and the public courts. . . . Does the availability of these alternative mechanisms siphon off too much of the support needed for the maintenance of an efficient and viable public judicial system? Some fear the perception of a two-track system of justice where those who can afford it will pick the private judge of their choice and obtain a fast-track resolution of their dispute, relegating to our public courts those persons unable to afford private judges and those defendants and victims involved with criminal offenses.

"There will always be a place for a variety of alternative methods of dispute resolution such as arbitration, mediation, and private judging. Nonetheless, an effective public justice system is absolutely crucial. By affording equal and fair and accessible justice to all, it knits together the diverse strands of our society. By issuing published opinions that establish precedent, it guides the actions of business entities and individuals as they go about their daily lives. It provides predictability and stability. It is part of the bedrock of our society that we must protect lest it be undermined. . . .

"Private judging has had an impact on another aspect of the administration of justice—the retention of experienced judicial officers within our judicial system. . . .

"I strongly believe that our court system should not serve merely as a training ground for a career in the private sector. It should maintain its role as the place of service to which our finest legal talent aspires as the culmination of a career."

## SEEKING A BALANCE

"The duty of the judiciary was described well by Chief Justice John Marshall of the United States Supreme Court when, in the early years of our republic, he remarked that the Supreme Court had an obligation not to 'usurp power' and an equal obligation not to 'shrink from its duty.' Our branch is constantly seeking to maintain the appropriate balance—our duty is to serve the public in applying the law and to perform the judicial function with integrity, care, and discretion. With your support, our branch will continue its quest to meet these goals and to serve the public. . . . "

## Task Force Continued from page 1

1998; each subcommittee is to submit final reports to the council by March 1, 1999.

☐ Subcommittee on the Quality of Judicial Service

Judge Robert M. Mallano, former presiding judge of the Los Angeles County Superior Court, and Justice James D. Ward of the Court of Appeal for the Fourth Appellate District

and Bradley Tahajian, Council and Legal Services, 415-356-6609 (CALNET 8-531-6609).

☐ Subcommittee on ADR and the Judicial System

Dean Jay Folberg of the University of San Francisco Law School and Judge Darrel W. Lewis of the Sacramento Superior and Municipal Courts will serve as chair and vice-chair. This subcommittee will study the following issues:

☐ Effect of ADR on courts: How has the increasing use of

"The way we address these important issues will have a tremendous impact on the quality of justice, the public's access to justice, and the public's confidence in our judicial system for many years to come."

-Chief Justice Ronald M. George

(San Bernardino) will serve as chair and vice-chair, respectively, of the Subcommittee on the Quality of Judicial Service.

Created at the recommendation of the Judicial Council, this panel is charged with making recommendations, including proposed rules, standards, and legislation, to ensure that:

- ✓ judges remain on the bench for full careers;
- ✓ older judges who are healthy and fit have the option to remain on the bench;
- ✓ judges who are no longer fully able to serve retire at an appropriate time; and
- ✓ compensation and benefits (e.g., sabbaticals and increased vacation time) are adequate to attract and retain highly qualified attorneys from all areas of legal practice.
- Contact: Rochelle Terrell, Human Resources, 415-904-9432 (CALNET 8-539-9432),

private alternative dispute procedures affected the justice system and the courts? Should any measures be adopted to ameliorate any negative effects or reinforce and expand any positive effects of private ADR?

✓ Effect of ADR on litigants and the public: What impact has the increasing use of private ADR had on litigants and the public? For example, how has private ADR affected the time and cost required to resolve disputes in the courts? How has it influenced the public's understanding of and confidence in the justice system? What measures might ameliorate any negative effects or strengthen any benefits of private ADR?

✓ Ethical issues: What ethical standards and educational guidelines should govern attorneys, nonattorneys, and active and retired judges acting as ar-

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## Subcommittee on Alternative Dispute Resolution and the Judicial System

Members of the Subcommittee on Alternative Dispute Resolution and the Judicial Luese System are Dean Jay Folberg, University of San Francisco School of Law, Chair; Judge Courl Darrel W. Lewis, Superior Court, Sacramento Superior and Municipal Courts, Court Vice-Chair; Attorney Cristina Arguedas, Berna Cooper, Arguedas & Cassman, Emeryville; and Normal President Richard Benson, Retail Clerks Retires Union, Local 870 Hayward; Deputy Executive Officer Jeanne Caughell, Ventura County Superior and Municipal Coordinated Courts;

Municipal Coordinated Courts;
Attorney Kevin Culhane,
Hansen, Boyd, Culhane &
Watson, Sacramento; Attorney Debra David, Lebovitz &
David, Los Angeles; Senior Fellow Edmund Edelman, Rand Institute; Attorney Donald Fishbach,
Baker, Manock & Jensen, Fresno;

Attorney Patricia Glaser, Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, Los Angeles; Professor L. Randolph Lowry, Straus Institute for Dispute Resolution, Pepperdine University School of Law; Judge Richard W.
Luesebrink, Orange
County Superior
Court; Judge Patrick
J. Morris, Superior
Court, San
Bernardino Superior
and Municipal Courts;



Dean Jay Folberg Ii, Californ

Retired Justice Edward Panelli, California Supreme Court; Attorney Robert Raven,

Morrison & Foerster LLP, San Francisco; Attorney Alan Rothen-

berg, Latham & Watkins, Los Angeles; Retired Judge David Rothman, Los Angeles County Superior Court, Executive Vice President/Chief Counsel Guy Rounsaville, Jr., Wells Fargo Bank; Professor

Gerald Uelman, Santa Clara Univer-

sity School of Law; Justice Miriam A. Vogel, Court of Appeal, Second Appellate District, Division One (Los Angeles); and Retired Justice Arleigh Woods, Court of Appeal, Second Appellate District, Division Four (Los Angeles).

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bitrators or mediators? What state entity or official has the authority to adopt standards or has such authority with respect to the groups identified?

✓ Court referral of dis-

putes: Should the standards governing the referral of disputes by courts to private judges or attorneys be changed? If yes, what changes should be made?

Contact: Amy Brown, Council and Legal Services, 415-396-9131 (CALNET 8-531-9131). ■

counties for family law facilitators under AB 1058 during fiscal year 1997–98. Some counties have supplemented AB 1058 funds to establish more extensive outreach to pro pers in all family law cases, beyond child support matters.

Attorney Judith Beck, family law facilitator for the Marin County Courts, is an enthusiastic supporter. "I see each person individually," Beck says. Some clients who speak English as a second language find it especially difficult to navigate the courts, she observes, while others simply need "a little handholding" during a time of crisis.

The Judicial Council is attempting to further motivate courts to support services to pro pers. In February, it approved a new award, to be given jointly with CJA and the State Bar, to a judge who does the most to improve access to judicial services for poor or low-income persons.

These efforts to assist pro pers represent a significant—and perhaps historic-philosophical shift from a traditionally adversarial system to a more accessible system. The increasing presence of pro pers in the courtroom "puts additional pressure on the judges to safeguard the rights of the unrepresented client," Presiding Judge Taylor notes. "It's more challenging."

William C. Vickrey, Administrative Director of the Courts, however, views pro per assistance as part of the judiciary's function. "The basic principle that the judiciary needs to assume responsibility for, and has done, is that economic status does not prohibit the ability to address one's basic issues in the court system," he says.

## **PARTNERSHIPS**

The optimum solution to the pro per crisis would be to find a lawyer for every person who needs one, acknowledges Mary Viviano, Director of the State Bar's Office of Legal Services. "The rules of the game are set up for two lawyers, and the whole system gets thrown off if one side doesn't have an attorney."

Recognizing that the problem is much more complicated, the State Bar has supported court-based services for pro pers, in addition to promoting pro bono activity among attorneys. By involving local bar associations early on, courts have been able to overcome some attorneys' resistance to providing free help to unrepresented litigants.

Prushan says that 80 percent of the people who use the Ventura courts' pro per services have gross incomes of under \$1,000 a month. With attorney fees averaging \$250 per hour in the area, "we knew that we were not taking clients away from any attorney," Prushan says.

Likewise, court administrators are getting over their reluctance to provide assistance. "Clearly, there are limits on what courts can provide, such as statutory constraints on staff

providing legal advice," says Vickery. "Still, there is interest in-as well as support for-making certain that courts back the efforts of local bars to make pro bono services available." He adds, "From our court visits, I've seen that for the most part judges and court administrators are concerned about providing services to pro pers because it is integral to the notion of ensuring there is access to the courts."

#### **VENTURA'S MODEL**

In 1997, the Ventura courts received a Special Recognition Award from the Chief Justice for its pro per clinic and automated kiosk system. At the courts' two pro per clinics and the Self-Help Legal Access Center, full-time paid attorneys and staff are assisted by volunteer law students, paralegals, attorneys, and court staff. They provide nonlegal advice, review paperwork, prepare people for the courtroom, and refer them to related services such as pro bono or legal aid programs.

"Most often people need more than a simple question answered," Prushan says. "We are a one-stop shop." The pro per service centers are stocked with forms, books, videos, and brochures. Classes are even offered to help people fill out forms; an overhead projector and transparencies are used to walk people step by step through each line on the forms.

Judge John R. Smiley, supervising judge for the Ventura courts' Family Law Division, calls the impact of efforts to assist pro pers "dramatic, positive, and sensational." He continues, "When I say, 'Did you file an income and expense document?' they know what I'm talking about. As a result, [litigants'] cases are not being continued for two weeks. They're there the first time, ready to do business." Two family courtrooms now devote one day a week exclusively to pro pers, the judge notes.

## **OTHER PIONEERS**

The Ventura County courts are not the only pioneer in helping pro pers. In February, the San **Diego County Superior Court** received the Chief Justice's Special Recognition Award for its pro per legal services program, which matches pro bono attorneys with people who need assistance in family law matters (see Court News, November-December 1997, "Chief Justice's Award Honors San Diego, Sacramento Projects"). In conjunction with its Family Law Access Project, San Diego started a new program in March 1995 to assist pro per litigants who are trying to become probate guardians for children.

Last year, Humboldt County added funds to its AB 1058 allocation, thereby allowing the **Humboldt Superior and Munic**ipal Court to open a Family Law Self-Help Center next to the clerk's office. Staffed by family

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## Subcommittee on the Quality of Judicial Service

Members of the Subcommittee on the Quality of Judicial Service are Judge Robert M. Mallano, Los Angeles County Superior Court, Chair; Justice James D. Ward, Court of Appeal, Fourth Appellate District, Division Two (San Bernardino), Vice-Chair; Judge Anthony A. Anderson, Municipal Court, Shasta County Courts; Attorney Percy Anderson, Sonnenschein, Nath & Rosenthal, Los Angeles; Attorney Richard Chernick, Los Angeles; Presiding Judge Candace D. Cooper, Santa Monica Municipal Court (Los Angeles); Judge Timothy L. Fall, Municipal Court, Yolo County Superior/Municipal Courts.

Judge Lesley D. Holland, Superior Court, Unified Trial Courts of San Joaquin County; Judge Dallas Holmes, Superior Court, Consolidated/Coordinated Superior and Municipal Courts of Riverside County;

Retired Judge Ellen James, Coordinated Trial Courts of Contra Costa County; Judge Suzanne W. Knauf, North County Municipal Court (San Diego); Chairman and CEO Peter Mullin, Mullin



Judge Robert M.

Consulting, Inc., Los Angeles; Justice Marcel Poché, Court of Appeal, First Appellate District, Division Four (San Francisco); Judge Randy Rhodes, Los Angeles Municipal Court; Judge Gloria F. Rhynes, Oakland-Piedmont-Emeryville Municipal Court (Alameda); Judge Brian R. Van Camp, Superior Court, Sacramento Superior and Municipal Courts; and Judge Debra W. Yang, Los Angeles Municipal Court.

## Litigants Continued from page 1

isfied with the ultimate resolution of a matter if it is brought to the civil justice system than if it

Given those findings, it is particularly ironic that legal aid for indigent clients has been slashed in recent years; in 1996, federal funding for Legal Services Corporation programs in California was cut 38 percent.

Today finds even more pro pers going it alone, some because they believe they can and others because they are simply unable to afford an attorney.

## **COURTS STEPPING IN**

California courts are grappling with how to address the ever-growing numbers of pro pers most effectively. In October 1996, Chief Justice Ronald M. George wrote to all California attorneys, urging them to do more pro bono work. And in August 1997, he wrote to his judicial colleagues, encouraging them to promote and support pro bono activities and services for pro pers.

"Courts often find that procedures developed with the specialized assistance of counsel in mind are ill-suited or unwieldy for pro per litigants," the Chief Justice wrote in his letter to California judges. "The administration of justice suffers as access to the impartial forum of the court seems less available to more and more individuals."

Judges and court administrators are realizing that it's "in their best interest to educate pro pers on how to use our system," says Presiding Judge Ronald L. Taylor of the Riverside Consolidated/Coordinated Superior and Municipal Courts. "If people can't access the system, they are denied justice." Presiding Judge Taylor serves on the Commission on Access to Justice, which originated with the State Bar's Access to Justice Working Group, and the Bench-Bar Pro Bono Advisory Committee, a joint effort of the Judicial Council, State Bar, and California Judges Association (CJA). These groups have been taking a hard look at the current crisis in legal representation and recommending ways to address the problem. "We're beginning to see some momentum developing," Presiding Judge Taylor observes.

A handful of courts have established pro per centers and asgrants to develop pro per mod-

1058 was signed into law in September 1996, adding 50 new sistance in child support cases.

of the Courts (AOC) is distributing over \$8.7 million to the

## **GROWING MOMENTUM**

sistance programs in recent years; the Judicial Council awarded five counties seed els for the rest of the state. Significantly, Assembly Bill

child support commissioners and establishing an Office of the Family Law Facilitator in all 58 counties. The offices will provide education, information, and as-

The Administrative Office

in simple, uncontested matters. The goal remains to develop new, more effective delivery methods that enable those unable to afford full representa-

tion to achieve meaning-

ful justice."

On Pro Per

Assistance

not be viewed as a

panacea, but as a stop-

gap measure to be used

"Pro per assistance should

—And Justice for All: Fulfilling the Promise of Access to Civil Justice in California, State Bar of California Access to Justice

Working Group, July 1996

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## Litigants

Continued from page 4

law facilitator Barret Brown and a paralegal, the office attracts about 40 visitors a day.

Humboldt is taking a "more holistic approach" to family law, explains Brown, offering books, manuals, computers, and typewriters to people who need them, as well as an area for children to play while their parents are using the resources.

The pro pers have been "stunned to find out that this is free," Brown says. "Regardless of the outcome, they feel that they've been heard."

the concept of pro per centers, the Judicial Council/AOC on July 1, 1997, distributed \$25,000 each in seed grants to Santa Clara, Alameda, Sacramento, Ventura, and San Diego Counties for the courts to use in developing materials and procedures that will assist others in setting up pro per centers.

With its grant, the San **Diego County Superior Court** will develop orientation and instructional videos on basic courtroom procedures. During 1996, 14,000 people were served in San Diego's Family Law Access Centers, located at the downtown family court and the superior court in Vista.

Ventura courts could not afford to update the computer after the Judicial Council revised its forms, Prushan explains.

In Sacramento, QuickCourt kiosks-installed at a private contractor's expense-also "turned out to be unsuccessful," Judge Charles C. Kobayashi says. Clients who speak English as a second language and clients not fully computer literate find the kiosks difficult to use.

The consensus seems to be that pro pers need someone to talk to and answer their questions much more than they need ATMlike equipment that dispenses forms on request. Nonetheless, Prushan believes there is a place

successful in referring hundreds of cases each year to mediation or arbitration (attorneys earn \$75 for each mediation).

"Most people just want someone to listen to their case," says Irene Mariani, a Marin County Courts judicial support specialist.

In San Bernardino Superior and Municipal Courts, several dozen well-trained volunteers are mediating civil harassment restraining-order cases, most of which involve pro pers.

With some people repeatedly calling police and showing up in court dozens of times, "the restraining orders were not solving the problem," says Program Administrator Cecilia Lowe. "They were a means of retaliating."

San Bernardino judges referred 1,200 civil harassment restraining-order cases into mediation in 1997, about half of which were successfully settled. "We bring the people in and sit them down" with a mediator, who spends as much time as is needed to work out an "adult solution," Lowe explains.

Judge Kobayashi initiated the Sacramento County Superior and Municipal Courts' pro per family law mediation program in late 1995 after he attended a seminar on the subject.

"A lot of these issues should be resolved without appearing in court," says Judge Kobayashi, who formed a working group with local attorneys to develop the program. Now up to nine attorney mediators attend family court on Monday afternoons to help resolve cases (attorneys earn \$150 for two hours of mediation). In exit surveys, 85 percent of the clients say they are very satisfied with Sacramento's mediation process.

"It's been very, very effective," Judge Kobayashi says. "I wish we had more attorneys volunteering for this program."

Janet Byron is a Berkeley-based writer.

"Judicial 'Equal Access' Activities," a

reference guide, describes several dozen court-based pro per programs, pro bono services, and legal assistance efforts around California, along with contact names and phone numbers. The 15-page guide was published in July 1997 by the State Bar's Office of Legal Services, in conjunction with the Bench-Bar Pro Bono Project.

Contact: For a free copy, call the State Bar's Office of Legal Services,

415-561-8800, ext. 7412.

# Goal IV: Quality of Justice and Service to the Public

"Promote the quality of justice by providing services to the public that meet their needs and enhance their understanding of and support for the judicial branch" Among policy directions are to:

- ✓ Emphasize assisting the court user as a priority for all court personnel.
- Broaden access to the courts, especially for unrepresented and low- or middleincome persons.
- In cooperation with the State Bar, support development of new alternative dispute resolution programs.

—Leading Justice Into the Future: Judicial Council of California Long-Range Strategic Plan, adopted May 16, 1997

Humboldt's family law pro per services often provide people with enough information to confidently settle their cases, according to Commissioner Joyce Hinrichs, whose job is one-third child support commissioner and two-thirds family court referee. "With assistance, [people] can make a knowledgeable decision," she says. "We get people into a position where they're able to agree."

Commissioner Hinrichs adds that the creation of her job last August has allowed the court to hear family law cases quickly, rather than putting them behind other criminal and civil cases.

## **AOC GRANTS**

To further develop and evaluate

"We're hopeful that we can videotape the courtroom and demonstrate how the procedures go, so [litigants] are more familiar with how the courtroom operates," says Pat Sweeten, San **Diego County Superior Court** Assistant Executive Officer.

## **TECHNOLOGY**

While technological advances in the form of videos and voice information systems have proved helpful, California's experiment with automated computer kiosks has been a disappointment so far.

The first QuickCourt kiosk was installed at the Ventura courthouse in December 1996, with much fanfare. But it is no longer in service because the for kiosks if they are well integrated with other pro per services.

## **ADR OPTIONS**

To encourage discussion before litigation, several jurisdictions have initiated programs to help people resolve civil disputes out of court. In addition to reducing the number of cases on the court calendar, alternative dispute resolution (ADR) can give pro pers the attention they need and want.

In 1992, the Marin County Superior Court became the first in California to recommend ADR for virtually all civil cases. Litigants can choose voluntary binding or nonbinding arbitration or evaluation by a neutral third party. The policy has been

Planning Ahea

Fifty-eight teams, representing each California county and comprising more than 400 court, bar, local government, and public members, are expected to attend the first Statewide Community-Focused Court Planning Conference, sponsored by the Judicial Council.

Exploring the theme "Courts and Their Communities: Local Planning and the Renewal of Public Trust and Confidence," the landmark conference will be held May 13-15 at the Westin Hotel in Long Beach. Chief Justice Ronald M. George will deliver welcoming remarks on May 13 and a closing address on May 15. He has urged counties to participate in the conference, emphasizing, "We

need to have the full complexity and diversity of our great state represented in order to ensure that the conference produces results that truly will serve the needs of the local courts and their communities."

## **FULL AGENDA**

Weaving together the themes of public trust and confidence in the courts, adequate resources for the courts, and improving the administration of justice, the conference will provide county teams with the opportunity to gain the skills needed to commence, implement, and institutionalize communityfocused court planning locally. Among other activities, team members will look at model programs for

court-community outreach and education in California and other states, focus on ways to develop closer working relationships between the legal community and the public, and develop a team action plan for starting the local planning process with their countywide court systems.

"By taking the lead in planning activities, the judicial branch can help set the direction and establish priorities for changes in the administration of justice," the Chief Justice has stated. "At the same time, by including and encouraging continuing community participation, the judiciary will be reaffirming in concrete terms its commitment to remaining accountable for its actions in managing the courts."

The conference is supported in part by a grant from the State Justice Institute.

Contact: Shelley M. Stump, Planning Coordinator, 415-396-9310 (CALNET 8-531-9310). ■

# Counties Rally to End Cycle of Family Violence

Ethical Issues for Judges, Broad Range of Topics Discussed at Statewide Conference

## National Drug Court Week in June

"National Drug Court Week" will be observed the first week of June. It will coincide with the 4th Annual National Association of Drug Court Professionals (NADCP) Training Conference to be held June 4–6 in Washington, D.C. The conference theme is "Drug Courts in the 21st Century."

**NADCP** encourages state and local governments to honor local drug courts and their practitioners during the week as drug courts throughout the nation hold sessions and graduation ceremonies. On June 3 and 4, drug court practitioners from across the nation will visit their congressional delegations in the nation's capital to discuss a national drug court legislative

● Contact: Janna Cooper, 888-31-NADCP or 703-706-0576, or Jaquie Sheehey, Conference Coordinator, Price Daniel Communications, Inc., 6200 South Syracuse Way, Suite 125, Englewood, CO 80111, 888-387-6757; fax: 303-904-0801; or e-mail: copdci@aol.com. Counties continue to make progress in their efforts to keep families safe and reduce the violence that too often tears families apart. This trend was highlighted at the latest statewide conference on family violence.

"Family Violence and the Courts IV: A California State Conference," held February 27 in Sacramento, attracted more than 400 court staff, prosecutors, and professionals involved in family violence prevention (including 43 judges), from most of the state's 58 counties.

The conference was coordinated by the Judicial Council's Family and Juvenile Law Advisory Committee, co-chaired by Superior Court Judges Leonard P. Edwards and Mary Ann Grilli, both of the Santa Clara County Consolidated Courts.

#### **ETHICAL CONCERNS**

Counties' family violence prevention coordinating councils—which play the key role of leading the courts and the community in a coordinated response to family violence—continue to make inroads despite concerns about judges' roles. Judges' participation on the councils has raised ethical issues because councils often take positions on legislation.

The establishment of family violence prevention coordinating councils was an important goal of the 1994 landmark, "Family Violence and the Courts: A California State Conference." Since that event, the vast majority of the state's counties have established coordinating councils.

An advisory from the California Judges Association, however, had cautioned one judge, Orange County Superior Court Judge Eileen C. Moore, who was

chair of the Orange County Family Violence Council, that "the legislative role of the council as presently organized is an inappropriate one for judges." If the council were "merely to monitor and educate regarding legislation or eliminate a legislative component completely," the advisory continued, "judicial participation would be appropriate." Judge Moore said she no longer feels judges can safely belong to such groups.

Judge Edwards, cautioning that "a judge cannot be involved with anything that has to do with advocacy," noted that Santa Clara's coordinating council no longer takes legislative positions.

#### **PLENARY SESSIONS**

Conference plenary sessions featured Minouche Kandel of the San Francisco Neighborhood Legal Assistance Foundation, who presented the past year's case law and legislation on domestic violence. Judge James D. Garbolino of the Placer County Superior and Municipal Courts, Judge Deborah B. Andrews of the Long Beach Municipal Court (Los Angeles), and Judge Peter Joseph Meeka of the Rio Hondo **Municipal Court (Los Angeles)** described how the domestic violence-dedicated courts operate generally and how their courts in particular work (see Court News, January-February 1998, "Courts Undertake Vital Role in Ending Family Violence"). Kathy Schwartz, National Administrator of the Violence Against Women Program Office, gave a national overview of family violence issues and discussed the program office's recent activities and ways it can assist local California efforts; and Rita Smith, Executive

Director of the National Coalition Against Domestic Violence, surveyed that organization's work and challenges. In addition, Alameda, San Diego, Shasta, and Yolo Counties described the work of their family violence prevention coordinating councils.

#### **MYRIAD TOPICS**

Attendees each year have built upon past conference experiences and, as a result, reflect a growing sophistication in grasping the interrelated issues surrounding family violence and in developing solutions.

Besides a discussion of judicial participation on councils, conference workshops focused on such topics as probation's response to family violence; death review, which evaluates the policies and practices that agencies and individuals use in working with the victim and perpetrator in violent relationships that lead to death; the impact of family violence on children, including the psychosocial impact and emotional trauma experienced by children in violent families and the evolving response of the courts to this problem; batterer intervention programs; stalking; and the victim's perspective on the processing of cases of family violence, focusing on child custody issues. Also discussed were the Domestic Violence Registry, emergency protective order (EPO) revisions, and law enforcement's response to family violence, including new developments in tracking restraining orders.

• Contact: Lee Meddin, Center for Children and the Courts, 415-904-5593 (CAL-NET 8-539-5593). ■

## New Institute To Help Sustain Drug Courts

Creation of the National Drug Court Institute is the latest development in the nascent drug court movement—"one of the most monumental changes in social justice since World War II," according to General Barry McCaffrey, Director of the Office of National Drug Control Policy (ONDCP).

A cooperative venture of the ONDCP and the National Association of Drug **Court Professionals** (NADCP), the **National Drug** Court Institute was formally launched during a White House ceremony in December. In attendance was **Superior Court Judge** Patrick J. Morris of the San Bernardino Superior and Municipal Courts, chair of the Oversight Committee for the California Drug Court Project.

The institute will promote education, training, and research in drug courts and other court-based intervention programs. In addition, it will provide the resources needed to sustain and enhance drug courts and court-based programs.

## NADCP RESPONSIBLE

NADCP, the principal national membership organization for professionals involved in the development and implementation of treatment-oriented drug courts, will be responsible for bringing the institute to fruition with a grant from the ONDCP. NADCP's president, retired Judge Jeffrey S. Tauber of the Oakland-Piedmont-Emeryville Municipal Court (Alameda), is credited with the effort to establish the institute and ensure that drug courts remain a permanent justice institution.

The National Drug Court Institute's first project will be a judicial training program in Washington, D.C., to be held in October in collaboration with the National Judicial College.

● Contact: For information about the NADCP, 901 North Pitt Street, Suite 300, Alexandria, VA 22314, 703-706-0576; e-mail:

NADCP1@aol.com, or visit its Web site at www.drugcourt.org.

For information about the Oversight Committee for the California Drug Court Project, contact Sandy Claire, 415-396-9112 (CALNET 8-531-9112), or Monica Driggers, 415-396-9139 (CALNET 8-531-9139), both in Trial Court Services.

## What a Site!

If you've visited the Judicial Branch of California Web site and found its contents particularly useful and its presentation especially attractive, you're in good company.

The oldest and most prestigious Web site directory called the Judicial Branch Web site "something the California legal system can be proud of." On a scale of zero to 100, the directory—Lycos TOP 5%—rated the Judicial Branch's Web site content 92 and its design 83. The site's overall rating is 86, placing it in the top 5 percent of state and local government sites in the United States.

The overall rating, which combines content and design, placed the Judicial Branch's Web site at number 4 among the top 25 sites during the first week of February; other California sites on the list were the California Secretary of State (10) and the California Energy Commission (15). The number 1 site was the Harris County

(Texas) District Courts. Other courts on the list included the North Carolina Courts (20) and the Leon County (Florida) Clerk of Courts (21).

The content of the Judicial Branch's Web site ranked number 3, following the number 1–ranked Harris Country District Courts. INFOMINE Government Information came in second. The content rankings for the other California and court sites remained the same as their overall ratings.

Lycos TOP 5%, which has been reviewing sites since 1994, wrote that the Judicial Branch of California Web site's "depth is impressive, especially in the myriad of documents—including everything from the California Rules of Court to a complete collection of Judicial Council Legal Forms—available in Word and Acrobat formats. The reference shelf contains most everything you'd want to know about California law, and the extensive links collection sends you out into the legal limbo of the Web's other judicious sites."

 Contact: Visit the Judicial Branch of California Web site at www.courtinfo.ca.gov.

# **Applicants Sought for Judicial Council Seats**

Judicial officers, court administrators, and State Bar members are encouraged to apply or nominate persons to fill upcoming vacancies on the Judicial Council, the governing body that shapes policy for the administration of the state courts.

Nomination forms and a detailed letter of solicitation for judicial positions will be mailed to all judicial officers and court administrators in April.

The deadline for receipt of completed forms is May 29.

Four judicial positions and one State Bar position will become vacant on September 14. For the judicial positions, the council is soliciting nominations for (1) one appellate justice, (2) two superior court judges, and (3) one municipal court judge. The Judicial Council's Executive and Planning Committee will review the nominations and then forward a slate of names to the Chief Justice, who will make appointments in August for two-year terms that begin September 15.

The State Bar Board of Governors selects the State Bar candidates.

## **NOMINATING CRITERIA**

The Executive and Planning Committee will present to the Chief Justice a slate selected according to criteria such as:

✓ service on a council advisory committee;

✓ interest in and experience with court administration issues;

✓ broad experience in the legal field and as a judicial officer;

✓ keen analytical ability, independent judgment, and a "big-picture" perspective on the role of the judicial branch;

✓ ability to maintain collegial working relationships and established credibility as a leader both within their home county and statewide; and

✓ good attendance at Judicial Council advisory committee meetings.

Diversity—in experience, gender, ethnic background, and geography—guides selection. The Executive and Planning Committee also considers it a priority for appellate district and county representation to rotate and for nonpresiding trial court judges from the more populous counties to serve on the council.

#### **HOW IT WORKS**

The Judicial Council is the state constitutional agency, chaired by the Chief Justice, that provides policy direction to the courts, the Governor, and the Legislature concerning court practice, procedure, and administration. The council performs its constitutional and other functions with the support of its staff agency, the Administrative Office of the Courts.

Rule 1002 of the California Rules of Court reaffirms that council members do not represent a specific constituency and are charged with making decisions "in the best interests of the public and the court system as a whole."

In addition to the Chief Justice, the Judicial Council includes 14 judges appointed by the Chief Justice (1 associate justice of the Supreme Court, 3 justices of the Courts of Appeal, 5 superior court judges, and 5 municipal court judges); 4 attorney members appointed by the State Bar Board of Governors; and 1 member from each house of the Legislature. The council also has 6 advisory members, currently filled by court administrators, a commissioner, and the president of the California Judges Association.

The procedures for nominating new judicial members to the council and its committees are intended to attract applicants from throughout the legal system. Staggered terms, with one-fourth of the council's membership changing each year, ensure continuity while creating opportunities for new participation and input.

Ocontact: For additional forms, contact Secretariat Services after April 15 at 415-396-9322 (CALNET 8-531-9322) or e-mail: Secretariat\_Services @jud.ca.gov. ■

## Judge Luna Newest Member

Judge Ana Maria Luna of the Southeast Municipal Court (Los Angeles) has been appointed to the Judicial Council to fill the vacancy created by the death of Judge Benjamin J. Aranda III. She will serve the remainder of his two-year term, which ends September 1999.

Judge Luna served as a commissioner of the Southeast Municipal Court before her election to the bench in 1994. She is a member of the California Judges Association Executive Board and has served on the Center for Judicial Education and Research faculty since 1994. Judge Luna is a graduate of the University of Southern California Law Center.

## Public to Vote On SCA 4

Come election day, voters will have their say about trial court unification.

On June 2, citizens will have the opportunity to vote on Proposition 220—SCA 4, or Senate Constitutional Amendment 4—which provides for the voluntary, not mandatory, unification of the superior and municipal courts of a California county into one countywide superior court. Prop. 220 permits a majority of the superior court judges and a majority of the municipal court judges within a county to vote to create a unified or single superior court.

SCA 4 (Prop. 220), passed by the Legislature in June 1996, is designed to create a single trial court in each county. As a proposed constitutional amendment, Prop. 220 must appear on the statewide ballot and pass with a majority vote.

If the measure passes, it would go into effect immediately—on June 3, 1998. ■

## Reaching Out

The Judicial Council's
Special Task Force on
Court/Community Outreach, which did not hold
its previously scheduled
March 16 meeting in Redding or April 13 meeting in
Los Angeles, has announced new dates and
locations for its public
meetings:

MAY 21:

Los Angeles, Hyatt Regency, 711 South Hope Street

JUNE 23:

Chico, Holiday Inn, 684 Manzanita Court

Meetings are from 10 a.m. to 3 p.m. The task force welcomes the public. During the public comment period at each meeting, from 1:00 to 1:30 p.m., each speaker is limited to three minutes.

• Contact: Persons interested in attending a meeting of the Special Task Force on Court/Community Outreach and those seeking special accommodations should call Katy Locker, Research and Planning, 415-904-2361 (CALNET 8-539-2361).

## Second District Court of Appeal 'Up Close and Personal'

The Court of Appeal for the Second Appellate District, Division Six (Ventura) is making a point of reaching out to its public and to court communities by offering "a proactive approach to a better judicial system," according to Assistant Administrator Paul McGill.

For students, the court biannually sponsors "Up Close and Personal With Division Six," inviting local high schools and community college classes to the court's

oral argument. The purpose is to foster a better understanding and appreciation of the courts, the judiciary, attorneys, and support staff, explains McGill.

First, the Division Six justices—Presiding Justice Steven J. Stone, Justice Arthur Gilbert, Justice Kenneth R. Yegan, and Justice Paul H. Coffeeselect a criminal case from the court's calendar. The briefs are sent to the teachers of selected classes, so that before going to court, students can read them and explore the issues in class. Following oral argument, attorneys for both parties lead the students in a question-and-answer session about the issues and their ramifications. Students then tour the courthouse and visit each justice. Finally, after the opinion is filed, a copy is sent to participating schools so students and their instructors can discuss the issues involved in the decision.

To reach a wider audience, the Division Six justices regularly appear on a local cable TV program to discuss the appellate process and answer questions from the public.

To bring together the court community, Division Six each November invites appeal clerks from San Luis Obispo, Santa Barbara, and Ventura Counties to its Tri-County Workshop to discuss appellate procedures and practices.



Seated, left to right, Justice Paul H. Coffee, Presiding Justice Steven J. Stone, and Justice Arthur Gilbert meet with Camarillo High School's criminal justice class and their instructor, Jim Steel, standing next to Presiding Justice Stone.

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Judge J. Richard Couzens

Judge Couzens is a member of the Judicial Council and immediate past chair of its Criminal Law Advisory Committee.

# Crimes Without Minimum Terms: Pick an Opinion

BY PLACER COUNTY SUPERIOR COURT JUDGE J. RICHARD COUZENS

number of crimes prescribe A punishment of life in prison without identifying any particular minimum term. Attempted willful, deliberate, and premeditated murder in violation of Penal Code section 664/187, for example, is punished by "life with the possibility of parole" without any stated minimum term such as "25 years to life" as required for firstdegree murder. In other circumstances the penalty is not expressed by a minimum term as such, but rather a minimum period for parole eligibility. An example of such a crime is the "One Strike" law under section 667.61 for certain violent sex offenses. Subsection (b) provides that a defendant coming within its provisions "shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 15 years." There have been five distinctly different approaches to applying the three-strikes law to this class of crimes. The issue: if a second-strike offender is subject to double the punishment and a third-strike offender to triple the punishment, what term is the court to double or triple?

People v. Jefferson (1996) 50 Cal.App.4th 958 [Second Dist.], a second-strike case, held that the three-strikes law did not apply to crimes punishable by life in prison without any stated minimum term. The defendant was convicted of attempted premeditated murder. Jefferson held that the general seven-year minimum eligibility for parole under Penal Code section 3046 is not a component of the sentence but concerns only the cal-

period was "an unmistakable drafting error." The court found that it was proper to use the seven-year minimum eligibility for parole under section 3046 as the basis for the calculation. The proper sentence for this defendant, having suffered one prior strike, was 14 years to life. The appellate court reversed the trial court's decision to impose two life terms.

People v. Barra (1998) \_\_\_ Cal.App.4th \_\_\_ [98 Daily Jour-



culation of parole eligibility by the Board of Prison Terms. The minimum period for parole eligibility is not affected by the three-strikes law. *Jefferson* has been granted review by the Supreme Court.

#### **CONFLICTING OPINION**

In direct conflict with *Jefferson* is *People v. Tran* (1997) 59 Cal.App.4th 1125 [Sixth Dist.], which held that the failure of the three-strikes legislation to address crimes punishable by an indeterminate life term without a stated minimum custody

nal D.A.R. 279][First Dist.] held that since the normal punishment for attempted premeditated murder is a life term, a defendant who commits such a crime with one prior strike must be sentenced to two consecutive life terms. Such a sentence will result in a minimum parole eligibility of 14 years.

People v. Cornelius (1998)

\_\_ Cal.App.4th \_\_\_ [98 Daily
Journal D.A.R. 1256][Fourth
Dist.] held that the defendant,
prosecuted under section
667.61(a) for a violent sex crime

and having suffered two prior strikes, was properly sentenced to a term of 75 years to life. The court held that section 667.61(a) imposed the functional equivalent of an indeterminate term of 25 years to life, which was then properly tripled, using the option (i) sentencing choice for a third-strike offender. It was immaterial for the purposes of the three-strikes law that the 25 years was a "minimum parole eligibility release period" or a specified "minimum term." Essentially in accord with Cornelius is *People v. Ervin* (1996) 50 Cal.App.4th 259 [Second Dist.], which approved the doubling of the minimum parole eligibility period under section 667.61 for a second-strike violent sex offender.

#### WISE OPTION

In view of the unsettled state of the law, perhaps the wisest opinion is People v. Wright (1998) \_\_\_ Cal.App.4th \_\_\_ [98 Daily Journal D.A.R. 657][First Dist.]. The appellate court reversed the trial court's decision to double the seven-year general minimum eligibility for parole under section 3046 for a second-strike defendant convicted of attempted premeditated murder. In writing for the court, Justice Hanlon chose to leave the sentence simply at "life with the possibility of parole" and later administratively amend the abstract of judgment to reflect the correct minimum term once the Supreme Court resolves the issue.

# Coordination Highlights

## 56 plans okayed; provisional approval extended for 2

The fiscal year 1997–98 through fiscal year 1998–99 coordination plans of five more counties were approved by the Judicial Council at its February 27 meeting. The approval of plans from El Dorado, Inyo, Kern, Mariposa, and Santa Barbara brings to 56 the number of counties whose plans have been approved to date.

In addition, the council authorized an extension of the provisional approval of plans from two other counties—Los Angeles and Orange—to allow the Trial Court Coordination Advisory Committee (TCCAC) additional time to review them before making its final recommendation to the council at the council's April 24 meeting.

The Trial Court Realignment and Efficiency Act of 1991

requires trial courts in each county to submit a countywide coordination plan to the Judicial Council every two years.

## **OTHER ACTION**

✔ Pay parity: The council at its February 27 meeting reviewed and approved the pay parity policy recommendations proposed by the TCCAC and approved eligibility for pay parity for municipal court judges, as recommended by the TCCAC, retroactively to January 1, 1998. Counties eligible for pay parity include all except Contra Costa, Del Norte, Kern, Monterey, Santa Barbara, Tehama, and Yuba, and Los Angeles and Orange-two counties whose plans were granted provisional approval.

✓ Governance: The council approved the TCCAC's proposed policies regarding both judicial and administrative governance for two counties—San Diego and Orange—that submitted plans with an alternative structure to the countywide model.

 $For judicial \ governance, the$ 

three acceptable structural models are: (1) a single presiding judge for all trial courts in the county; (2) an executive oversight committee with countywide responsibility in specific areas, such as assignments, training of judges, and unification of local rules; and (3) an executive oversight committee for all the county's trial courts that has the authority and responsibility of a presiding judge, as prescribed in statutes and rules of court allowed by Government Code 68114.5.

For administrative governance, the three acceptable models are: (1) a single court executive officer for all trial courts in the county; (2) an executive administrative entity with countywide responsibility for all budget and fiscal operations, personnel policies and procedures, and integrated information systems and other technologies; and (3) an executive administrative committee for all the county's trial courts with the authority and responsibilities of the superior court executive officer and municipal court administrator, as prescribed by statutes and rules of court.

✔ Progress assessments: The council approved the TCCAC's recommendations for assessments of progress in implementing the trial court coordination mandates as of February 27, 1998, for each county with an approved plan. The TCCAC determined the level of coordination as one of three categories: fully implemented coordination, coordination implementation consistent with rule 991 of the California Rules of Court, and coordination implementation in progress.

The TCCAC also provided its recommendations for eligibility regarding the following incentives: pay parity for municipal court judges (see above). funding from the Trial Court Improvement fund (at its February 4 meeting, the council approved allocating approximately \$2 million for the fund for trial courts that are "fully coordinated" to the maximum extent allowable by law), funding from the Judicial Administration Efficiency and Modernization Fund, and new judgeships.

Contact: Fran Jurcso,Trial Court Services, 415-396-9151 (CALNET 8-531-9151).

#### MESSAGE FROM THE JUDICIAL COUNCIL

## Clearly, Jury Instructions Could Be Better

BY PRESIDING JUSTICE ROGER W. BOREN COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION TWO (LOS ANGELES)

As an appellate judge stuck in an ivory tower (actually the North Tower of the Ronald Reagan Building, which has no ivory and not much of a view), I sometimes miss the live action of the trial court. As I look up from the appellate briefs on my desk and gaze out my chambers' windows, I can see the Los Angeles Criminal Courts Building just two blocks away. I am keenly aware that in the courtrooms of that building a number of human dramas are playing that outstrip the emotion of most television programs. The witnesses and other players in a good trial are not only live and in living color but usually present more dramatic tension between good and evil than any Hollywood screenwriter can ever produce.

That's what an appellate judge misses. Appellate oral argument has its fine points, but it will never attract a mass audience.

What I do not miss, however, is the glazed look that would sometimes appear on jurors' faces when, as a trial judge, I instructed a jury on proximate or supervening cause in a negligence case or on the array of verdicts available in a homicide case. I could feel the jurors' lack of comprehension, but I generally felt powerless and somewhat ashamed that I did not dare explain the legalese to the jurors. I knew I would invite error if I tried to simplify or clarify.

There may be some among us who have succeeded in making instructions more understandable. Giving portions of the instructions at appropriate points during a trial in advance of closing arguments probably helps the jurors better grasp the legal issues. But judging by the recurrence of conflicting verdicts and other jury-related problems that cause reversals from time to time, procedural aids are not a complete answer.

## **CURRENT SYSTEM CRITICIZED**

In recent years challenges to our jury system have risen. An opinion article in the *Chicago Tribune* (February 6, 1997) described the jury system as "a legal invention with a murky past and an uncertain future [that] has fallen out of favor in one country after another." The article lauded jury reform efforts in Arizona. It noted that Arizona jurors receive a "primer on the applicable law before the presentation of evidence begins, and they get those instructions in language that is plain and easy to understand." The article claimed that "[t]he legal procedure that has received perhaps the most criticism is the jury instructions that judges read to jurors after the evidence is presented. The instructions, usually rooted in old case law, seem like a different language. . . . Consider an instruction used in California that defined 'proximate cause' as 'a cause which, in natural and continuous sequence, produces the injury and without which the

injury would not have occurred.' Researchers asked jurors what the instruction meant. A fourth got it wrong."

The California Blue Ribbon Commission on Jury System Improvement presented its comprehensive report to the Judicial Council in May 1996. One of the report's most noncontroversial recommendations was that a task force be appointed to overhaul pattern jury instructions. The recommended goal



Chief Justice Ronald M. George appointed the Task Force on Jury Instructions in December 1996 and added two public members in February 1997. The chair of the task force is Justice Carol Corrigan (Court of Appeal, First Appellate District).

#### STARTING FROM SCRATCH

It was originally contemplated that the task force would undertake its work in combination with the CALJIC and BAJI committees of the Los Angeles Superior Court. A good portion of 1997 was spent seeking to find ways to combine forces, but the effort to produce a cooperative effort failed. As a result the task force has revised its workplan, which now has a two-year timeline. The Task Force expects to present its draft jury instructions to RUPRO (the Judicial Council's Rules and Projects Committee) for circulation in June 1999.

The task force has organized two subcommittees, one for criminal law instructions and the other for civil law. The subcommittees will survey jury instruction simplification projects undertaken by the federal courts and other states. The subcommittees have also sought expert assistance in the fields of language and linguistics.

Because the task force will not be using CALJIC or BAJI instructions as its base, it will necessarily work from the ground up. At this stage, it is difficult to envision the final product.

As the blue ribbon commission noted, its recommendation, "that jury instructions be redrafted in more understandable language, will not be simple to implement." The most obvious problem, of course, is that jury instructions have two audiences: the jury is the first and the appellate courts are the second. Simplification may yield the consequence that an instruction is an inaccurate statement of law. Satisfying both audiences is a daunting challenge for the task force. Yet that is the task—to produce instructions that are both clear and accurate. In the meantime, watch out for those intervening causes.



Presiding Justice Roger W. Boren

## Thank You, Jurors

Some counties already show jurors they care (see Court News, November–December 1997, "Courts Show Gratitude for Jurors' Service, Sacrifice"), but if the Judicial Council has anything to say about it, jurors throughout the state will get the recognition they deserve for their crucial role in the justice system.

The council approved a recommendation to cosponsor a concurrent resolution establishing Juror Appreciation Week. The annual statewide observance would be during the second full week in May, beginning this year.

The draft resolution requests the designation of the week as "a special time for the recognition of jury service and the role it plays in a democratic society."

The request for the council to cosponsor the resolution came from the Orange County Superior Court, on behalf of the California Association of Trial Court Administrators (CATCA) and the Jury Education Management Forum (JEM), a statewide organization of jury managers operating under the auspices of CATCA.

# Judicial Appointments

Governor Wilson made the following judicial appointments from mid-January through February.

## **SUPERIOR COURTS**

Brad R. Hill, of the Municipal Court, to the Superior Court, Fresno County Courts, succeeding Herbert I. Levy, elevated.

Eric M. Nakata, of the Municipal Court, to the Superior Court, San Bernardino Superior and Municipal Courts, succeeding Stanley Hodge, retired.

Yolanda N. Northridge to the Superior Court, Administratively Consolidated Trial Courts of Alameda County, succeeding Martin Jenkins, commissioned to the U.S. District Court.

Charles A. Wieland to the Superior Court, Consolidated Superior and Municipal Courts of Madera County, succeeding Paul Martin, retired.

John L. Cosgrove, of the Municipal Court, to the converted (November 5, 1997) Superior Court position, Placer County Superior and Municipal Courts.

Donald C. Byrd, to the Superior Court, Glenn County Consolidated Courts, succeeding Roy MacFarland, retired.

Kenneth Kai-Young So, of the San Diego Municipal

Court, to the San Diego County Superior Court, succeeding Barbara T. Gamer, retired.

Mark V. Mooney, of the Los Angeles Municipal Court, to the Los Angeles County Superior Court, succeeding Carlos R. Moreno, commissioned to the U.S. District Court.

## MUNICIPAL COURTS

David S. Richmond to the Amador County Municipal Court, succeeding Don Howard, retired.

Mark S. Arnold to the South Bay Municipal Court (Los Angeles), succeeding James R. Brandlin, elevated. Harold Craig Manson to the Municipal Court, Sacramento Superior and Municipal Courts, succeeding Tani G. Cantil-Sakauye, elevated.

Frances A. Kearney, commissioner of the Superior Court, to the Municipal Court, Placer County Superior and Municipal Courts, succeeding John L. Cosgrove, elevated.

Barry T. LaBarbera to the Municipal Court, San Luis Obispo Superior and Municipal Courts, succeeding Teresa Estrada-Mullaney, elevated.

John J. Garaventa to the Municipal Court, Tehama County Courts, succeeding Edward J. King, III, elevated.

Colette M. Humphrey to the Bakersfield Municipal Court (Kern), succeeding Coleen Ryan, elevated.

MARCH-APRIL 1998 • • • • • • COURT NEWS



# Task Force on Court Facilities Takes Shape

The six judicial branch representatives of the 18-member Task Force on Court Facilities have been appointed by Chief Justice Ronald M. George, as specified by the Lockyer-Isenberg Trial Court Funding Act of 1997.

Administrative Presiding Justice Daniel J. Kremer of the Court of Appeal for the Fourth Appellate District, Division One (San Diego), has been appointed chair of the task force that will undertake a comprehensive study of the court facility needs of California's 174 trial and appellate courts. The new statewide panel, created by the Trial Court Funding Act, will make recommendations for funding the maintenance, improvements, and expansion in court facilities, and also for the facility responsibilities of various government entities.

"As we begin to implement state trial court funding, the next major goal will be to provide the kind of facilities that the public, witnesses, litigants, lawyers, judges, and staff deserve," said Chief Justice George. "Our courts must be safe and secure and able to meet the ever-increasing needs of the public they serve."

The five other members appointed by the Chief Justice are San Diego County Superior Court Judge Wayne L. Peterson; Superior Court Judge Michael E. Nail, Solano County Consolidated Courts; Superior Court Judge Diane Elan Wick, San Francisco Trial Courts; Executive Officer Greg M. Abel, Sonoma County Courts; and Executive Officer John A. Clarke, Los Angeles Superior Court and the Administratively Unified Courts of Los Angeles County.

## Changes for Budget Commission

The composition, selection, and duties of the Trial Court Budget Commission (TCBC) have been changed. The Judicial Council adopted amended rules 1020 and 1026 of the California Rules of Court governing the TCBC, effective February 27, 1998.

The Lockyer-Isenberg Trial Court Funding Act of 1997 (AB 233) contains provisions indicating the desirability and necessity of changing the rules of court regarding the TCBC.

The amended rules make the following changes:

- TCBC's membership has been reduced from 32 to 24 (16 judges and 8 trial court executives).
- Commission members will be selected by the same method used to name members to Judicial Council advisory committees. The Chief Justice will make the selections based on nominations and

recommendations from the council's Executive and Planning Committee. Members make decisions in the best interests of the public and the court system as a whole.

- The commission will evaluate the incremental budget requests of the trial courts and make prioritized recommendations to the council. The TCBC periodically reviews major components of the base budget submissions of the trial courts.
- The commission recommends allocation of state trial court funding to the council based on specified criteria.
- The commission makes recommendations to the council on reallocation of funds during the current fiscal year for specified purposes.
- The commission submits an annual report to the council on the fiscal state of the trial courts.

#### **COMPOSITION**

Under the Trial Court Funding Act, the task force will be composed of 18 members, selected as follows: 6 members appointed by the Chief Justice from urban, suburban, and rural courts; 6 members appointed by the Governor from a list of nominees submitted by the California State Association of Counties and representing urban, suburban, and rural counties; 2 members appointed by the Senate Rules Committee, 1 representing the State Bar or an associated at-



Administrative Presiding Justice Daniel J. Kremer

torney organization; 2 members appointed by the Speaker of the Assembly, 1 representing the State Bar or an associated attorney organization; and 2 more, the Director of General Services and the Director of Finance.

Contact: Robert Lloyd, Business Services, 415-396-9197 (CALNET 8-531-9197).

# Justice Ardaiz Chairs Employees Task Force

Statewide Panel to Recommend New Personnel Structure

Administrative Presiding Justice James A. Ardaiz of the Court of Appeal for the Fifth Appellate District (Fresno) will chair the new Task Force on Trial Court Employees.

Chief Justice Ronald M. George made the appointment and that of four trial court representatives, as the Lockyer-Isenberg Trial Court Funding Act of 1997 specified. The act established the statewide 18-member panel to develop and recommend a new personnel structure for trial court employees.

"As the state assumes trial court costs, the work of the task force will be key to ensuring a uniform statewide approach to personnel issues that also will provide local organizational and operational flexibility," Chief Justice George stated.

The four trial court representatives are Los Angeles County Superior Court Judge Aviva K. Bobb; Superior Court Judge Charles D. Field, Consolidated/Coordinated Superior and Municipal Courts of Riverside County; Executive Officer Ron Overholt, Administratively Consolidated Trial Courts of Alameda County; and Executive Officer Christine E. Patton, Santa Cruz County Consolidated Courts.

## COMPOSITION

Besides the Chief Justice's appointments of the nonvoting chair who is a justice of the Court of Appeal and 4 trial court representatives, the act designates 13 other task force members to be appointed as follows: 4 representatives of the counties, appointed by the Governor from a list of nominees submitted by the California State Association of Counties; 3 representatives appointed by the Senate Rules Committee, at least 2 of whom represent trial court employee organizations; 3 representatives appointed by the Speaker of the Assembly, at least 2 of whom represent trial court employee organizations; the Director of the Department of Personnel Administration or his or her representative; the Chief Executive Officer of Public Employees' Retirement Systems (PERS) or his or her representative; and the Director of Finance or his or her representative.

## **Court Interpreters**

## Higher per diem rates to be sought

The Judicial Council at its February 27 meeting voted to seek increased funding during fiscal year 1998–99 for court interpreters. If funding is appropriated, the per diem rates would be adjusted effective July 1, 1998, to increase: the rates to the minimum service level (MSL) of \$90/\$180 (half day/full day) plus 5 percent, and all other rates currently above the MSL by 3 percent. An additional 3 percent is also being requested to increase all per diem rates.

If funding is appropriated in fiscal year 1998-99, the council also voted to fund: the full year

cost of court interpreter coordinator positions consistent with the Budget Act language, which determines the staffing level by the population size of each county; and anticipated growth in interpreter expenses that result from increased workload.

The Judicial Council also plans to make another request for additional funding this fiscal year to increase per diem rates in all counties below the MSL to the MSL rate of \$90/\$180 (half day/full day) plus 5 percent, and increase those counties that are above the MSL rate by 3 percent.

In addition, the Judicial Council has adopted the goal of increasing the per diem rate to the federal per diem rate of \$135/\$250 (half day/full day) by

fiscal year 1999–2000, subject to funding authorization.

# Advisory panel to expand

The Judicial Council voted to expand the membership of its 19-member Court Interpreters Advisory Panel to temporarily add three membership slots for the California-based court interpreter associations and three membership slots for additional judges and/or court executives. Members would be selected according to the council's committee nomination process under rule 1020 of the California Rules of Court. Four of the six slots would be phased out over a twoyear period.

## Issues to be studied

The Judicial Council authorized the Administrative Office of the Courts to conduct or contract a study to address issues relevant to the Court Interpreters Program, including but not limited to interpreter compensation, working conditions, recruitment, testing and certification of interpreters, retention of qualified interpreters, and determination of the qualifications and duties of interpreter coordinators. The study will be submitted to the Court Interpreters Advisory Panel for review and comment before it is submitted to the Judicial Council.

Contact: Joseph Wong,Trial Court Services, 415-356-6670 (CALNET 8-531-6670).

## **Education & Development**

# CJER BENCH TIPS

# Establishing your own trial policies

Some judges distribute to attorneys trying cases in their courts written policies highlighting specific local or Judicial Council rules that these judges wish to emphasize. These policies also express the individual judge's requirements regarding matters not covered by any generally published rules and therefore not accurately called "rules." These requirements inform the attorneys about how the judge wants things done. For example, the judge may require the attorneys to exchange lists of all exhibits they intend to offer at trial. They might also describe how the attorneys are to conduct themselves in the courtroom. Attorneys may be required, for instance, to examine all witnesses from a lectern or from behind counsel's table.

Such policies focus on requirements and expectations that may differ from one judge to another. Some judges prefer to discuss their preferences with attorneys at the trial management conference rather than distribute them in writing.

In many direct-calendar courts, the clerk sends a copy of the judge's policies to each attorney when the case is set for trial. In master-calendar courts, the clerk usually hands the attorneys copies of the policies when they arrive at the courtroom assigned for the trial.

At the trial management conference, some judges state on the record that:

✓ Each attorney has received a copy of the policies (or, if the judge does not distribute written policies, the judge has explained certain policies to the attorneys);

✓ These policies are adopted as orders in the case; and

✓ Violations of these orders are sanctionable under Code of Civil Procedure section 1775.5 and California Rules of Court, rule 227 (superior courts) or rule 526 (municipal courts).

A judge's policies are enforceable only if they are imposed on the parties by such an explicit court order; characterizing the policies as "rules" is insufficient to make them enforceable. (See Estate of Meeker (1993) 13 Cal.4th 1099, 1104.)

#### **NO ORDERS**

Other judges do not usually adopt their policies as orders, believing instead that they can control trials effectively without such orders, which they may consider a heavy-handed approach. They regard it as sufficient if each attorney either signs an acknowledgment that he or she has received a copy of the policies or acknowledges receipt orally on the record. They adopt the policies as orders only when an attorney's conduct at the trial management conference raises some doubt about the attorney's

readiness to comply.

Most judges are flexible about enforcing their policies. Although they expect each attorney to follow them, they generally impose sanctions for failure to do so only for repeated or flagrant violations and only after giving the errant attorney a warning that sanctions will be imposed for further violations.

A checklist of points that a judge might consider including in a written statement of policies with suggested language, appears in §3.8 of CJER's 1997 benchbook, *Civil Proceedings—Trial*.

• Contact: Judicial officers may obtain free copies of *Civil Proceedings—Trial*, its two companion benchbooks, *Discovery* and *Before Trial*, and other CJER publications by calling 415-356-6441.

## **RESOURCES**

## Applicants sought for Family Court Services grants

Application forms for the Family Court Services Dissertation Grant Program are now available, the Statewide Office of Family Court Services has announced.

Deadlines for receipt of applications are June 1, 1998, and January 15, 1999.

The Family Court Services Dissertation Grant Program was created to promote innovative and timely research and research training in areas that affect the California court system and its

clients. Research that examines policies and practices for the design and delivery of services to families seeking resolution of disputes involving child custody and visitation is of special interest.

Students in disciplinary or interdisciplinary Ph.D. or Psy.D. programs relevant to family and juvenile court (e.g., psychology, sociology, education, social work, law, and human development) are invited to apply.

Contact: Application materials, including forms, are available from the Statewide Office of Family Court Services, 415-396-9153 (CALNET 8-531-9153), or from the Judicial Branch of California Web site at www.courtinfo.ca.gov/aoc/trial-courtservices.htm.

## SJI grants available

The State Justice Institute (SJI) announces the following programs for which it is offering funding, along with their application deadlines.

✓ Technical Assistance: Grants are limited to a maximum of \$30,000 each. The grant program is designed to provide state and local courts with funding to obtain expert assistance to diagnose a problem, develop a response to that problem, and initiate implementation of needed changes.

To apply, state or local courts may submit at any time an original and three copies of a detailed letter describing the proposed project.

Applicants submitting letters by June 12, 1998, will be notified by August 28, 1998.

✓ Curriculum Adaptation: These grants, for which only state or local courts may apply, are limited to \$20,000 each. The program's goal is to provide courts with the small amount of funding often needed to adapt and deliver a model curriculum, course module, national or regional conference program, or other education program developed with SJI funds by another state or national organization.

To apply, a court submits a detailed letter of application, with three photocopies, at any time during the fiscal year.

✓ Scholarships: Judges and court managers interested in obtaining a scholarship to attend out-of-state court-related educational programs should submit applications by July 1, 1998, for programs beginning between October 1 and December 31, 1998.

• Contact: State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314, 703-684-6100, or visit the SJI Web site, www.clark.net/pub/sji.

Continued on page 12

## Education Programs Need Volunteers

The Center for Judicial Education and Research (CJER) Governing Committee is seeking judicial officers and court administrators to serve as leaders and committee members of the judicial branch's ongoing judicial and administrative education programs.

Specifically, the committee is seeking judicial officers to serve as Dean and Associate Dean of the B. E. Witkin Judicial College of California. Members are also needed for (1) the New Judge Education Committee, (2) the Continuing Judicial Studies Program Planning Committee, and (3) planning committees for annual institutes.

Both judicial officers and court administrators are sought for the Judicial Administration Institute of California Subcommittee.

A mailing to judicial officers and court administrators in February included nomination forms.

● Contact: If you have not received a nomination form and would like one, call CJER at 415-356-6400 (CALNET 8-531-6400).

## New Rules

## Qualifications for appointed counsel in capital cases

New rule 76.6 of the California Rules of Court, effective February 27, sets out the minimum qualifications counsel must meet in order to be eligible for appointment to represent an inmate in a capital case either on direct appeal or for habeas corpus and related proceedings. The rule sets forth in greater detail standards previously embodied in section 20(c) of the

Standards of Judicial Administration.

The California Supreme Court and the Judicial Council adopted the new rule in accordance with Government Code section 68566, which requires joint adoption of such a rule.

In early December 1997, the Judicial Council, in consultation with the Supreme Court, solicited public comment on the proposed rule. After considering the numerous comments and the changes proposed by the Judicial Council's Appellate Advisory Committee in response to those comments, the Supreme Court made additional changes

and adopted the proposed rule in early February 1998.

At a public meeting on February 27, the Judicial Council adopted the rule as approved by the Supreme Court.

Rule 76.6 is posted on the Judicial Branch of California Web site at www.courtinfo.ca. gov/rules. Copies also are available from the Public Information Office at the Administrative Office of the Courts, 415-396-9118 (CALNET 8-531-9118), and from the California Appellate Project, One Ecker Place, Suite 400, San Francisco, CA 94105, 415-495-0500.

# Telephone appearances

The Judicial Council adopted, effective July 1, 1998, amended rule 298, which gives counsel in superior court civil cases and probate proceedings the option of appearing by telephone in conferences and nonevidentiary law and motion and probate hearings. Courts are permitted to contract with a private teleconferencing provider, which may charge a fee for its services.

The council also adopted amended rule 827, which now includes an advisory committee note clarifying that rule 298 is the only rule that applies to telephone appearances by counsel in superior court (previously, rule 827 had also applied). ■

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Assistant Presiding Judge Victor E. Chavez



Judge Judith C Chirlin

## Court Briefs

## NACM seeks nominees for high honors

The National Association for Court Management (NACM), the world's largest association of court professionals, is seeking nominations for two of its annual recognition awards.

☐ Award of Merit: NACM's most prestigious individual award is presented to a person who has demonstrated leadership and excellence in the advancement of the ideals and principles of modern judicial management and professional court management. The work of the award winner reflects NACM's purposes: increased proficiency of administrators, effective implementation of modern management techniques, and support for the use of technological methods.

The deadline for receipt of nominations is May 1.

Contact: Submit nominations in writing and with reference letters to Diana Jones, Chair, Membership Services Committee, P.O. Box 798, Garden City, KS 67846, 316-272-3532

☐ Justice Achievement Award: The award recognizes courts and related organizations for meritorious projects and exemplary accomplishments that enhance the administration of justice. The projects must be operational and must have produced results; they cannot be in the planning stages.

Nominations may be submitted by any person, court, related agency, or organization.

The deadline for receipt of nominations is April 15.

• Contact: Submit nomination information to NACM's

Association Services, c/o National Center for State Courts (NCSC), P.O. Box 8798, Williamsburg, VA 23187-8798. For nomination instructions, contact NACM's Association Services at the NCSC, 757-253-2000.

## Judge Victor Chavez 'Person of the Year'

Los Angeles County Superior **Court Assistant Presiding Judge** Victor E. Chavez was honored as the Los Angeles Metropolitan News-Enterprise Person of the Year for 1997 during a barbecue at the Regal Biltmore Hotel in January. The tenth annual awards program brought together city and county officials and his former and current colleagues in the legal community to honor Judge Chavez for his public service and outstanding contributions as a lawyer and judge.

Also honored at the newspaper's awards event, for his 40 years of outstanding public service to Los Angeles County, was Presiding Judge Robert W. Parkin.

The Western theme of the dinner was a tribute to Judge Chavez, who is well known as the co-founder of the Cowboy Lawyers Association. In accepting the award, Judge Chavez spoke fondly of the mounted hero, recalling that cowboys displayed neighborliness and other courtesies now often forgotten, and suggested that the legal profession could benefit from a return to those qualities.

Before his appointment to the bench in 1990, Judge Chavez, a graduate of Loyola Law School, was an accomplished trial lawyer. His daughter, Judge Victoria Marie Chavez, is also on the Los Angeles County Superior Court bench.

Judge Parkin was a Los Angeles police officer and a prosecutor and city attorney for Long Beach before being appointed to the bench.

## Judge Chirlin heads American Judicature Society board

Los Angeles County Superior Court Judge Judith C. Chirlin is the chair of the board of the American Judicature Society (AJS).

AJS is an independent nonprofit organization supported by a national membership of judges, lawyers, and other members of the public. Through research, educational programs, and publications, AJS addresses concerns related to ethics in the courts, judicial selection, the jury, court administration, and public understanding of the justice system.

Judge Chirlin, who has been on the bench since 1985, is a former chair of the National Association of Women Judges Committee on Judicial Selection and vice-chair of the Judicial Council's Subcommittee on Gender Fairness. She has also served on the boards of, among other organizations, the Constitutional Rights Foundation and California Women Lawyers.

Judge Chirlin is well known for her contributions to court reform internationally, having taught at the Russian Legal Academy and served as consultant on court reform to the Conference of Central American Bar Associations and the Supreme Court of Peru. In October 1997, Judge

Chirlin participated in a seminar for judges and journalists in Bulgaria, sponsored by the American Bar Association's Central East European Legal Initiative (CEELI). Following an episode of severe atrial fibrillation while in Bulgaria, brought about by a heart-valve failure, Judge Chirlin underwent surgery. After a period of recuperation, she is now back on the superior court bench.

## Commissioner Murphy 1997 'Angel of Year'

Los Angeles County Superior Court Commissioner Timothy Murphy is one reason the spirit of volunteerism shines brightly in his community. One of five "Angels of the Year" in 1997, Commissioner Murphy was honored with the other angels, from North Hollywood, Burbank, and Toluca Lake, during a ceremony at the North Hollywood Medical Center on January 15.

Recipients of the "Angels of the Year" awards are selected by a charitable organization of local businesses that created the volunteer awareness program to honor the selfless acts of citizens in their community.

**Commissioner Murphy was** selected for his efforts to make a difference in the lives of children in Burbank. To assist at-risk children, he created the Boys & Girls Club of Burbank. In 1993, he organized a board of directors for the organization; he has served on it every year, including two terms as president. He initiated the Burbank Outreach Center, a national model for putting together government resources to help children. Commissioner Murphy also assists the "5 Acres" children's orphanage, Burbank Temporary Aid, the Salvation Army, and the American Red Cross.

Education & Development *Continued from page 11* 

# WORKSHOPS

# Preparing for the next millenium

To prepare court personnel for the challenges that they and their courts are facing, the 1998 Mid-Level Management Conference focuses on "Leadership for the Next Millenium."

The ten-year-old training program, designed for middlemanagement court personnel, is sponsored by the Center for Judicial Education and Research and the Judicial Administration Institute of California.

The two-day conference was offered March 31–April 1 in Oakland at the Oakland Marriott City Center and will be offered April 30–May 1 in Chico at the Holiday Inn and June 2–3 in Costa Mesa at the DoubleTree Hotel.

At the plenary sessions, "Leadership by Style" and "Keeping Employees Motivated" will be discussed. In addition, attendees will have the opportunity to acquire skills and practical training in areas such as labor relations as affected by AB 233; the Americans With Disabilities Act, the Family and Medical Leave Act, and workers' compensation compliance; diversity in the workplace; ethics and coaching in performance management; management transitions; and violence in the workplace.

• Contact: Martha Kilbourn, Administrative Education, 415-356-6430 (CALNET 8-531-6430).

## First Witkin Symposium scheduled

The first Bernard E. Witkin Legal Information Symposium, "Shaping the Future of Legal Information," will be held from 9:00 a.m. to 4:30 p.m on May 16 at the Los Angeles Airport Hilton.

The symposium, a program of the Bernard E. Witkin State Law Library of California, is sponsored by the California State Library (CSL) and the CSL Foundation. The registration fee is \$95.

Chief Justice Ronald M. George will deliver the luncheon keynote address.

Symposium topics include access to information in the courts, major changes in law publishing, emerging roles of electronic legal information delivery systems, and new concepts and strategies in legal research.

Speakers will include Supreme Court Justice Ming W. Chin; Presiding Judge Thomas M. Cecil of the Sacramento Superior and Municipal Courts and chair of the Judicial Council's Court Technology Advisory Committee; Roberta Katz, Senior Vice President and General Counsel of Netscape, Inc.; and Professor Robert Berring, Director of the Law Library, University of California Boalt Hall School of Law.

Contact: Lisa Karplus, Program Coordinator, 510-549-3767, lisa@karplus.com; or Frances M. Jones, State Law Librarian, Program Chair, 916-653-3883, fjones@library.ca.gov. ■

# Courts Honor Their Champions

## 'Path to Excellence: Promoting Public Trust and Confidence in the Judicial Branch'

The year's California Judicial Administration Conference (CJAC), the Judicial Council's premier educational and recognition event, attracted more than 450 judges, court administrators, and court staff. The theme of the conference was "Path to Excellence: Promoting Public Trust and Confidence in the Judicial Branch."

Held in Monterey February 5–7, the event offered attendees information in workshops and plenary sessions about the latest developments in important issues affecting the courts. The council and the court community also had the opportunity to honor the individuals and courts

whose contributions have made a positive impact on the administration of justice during the year. Chief Justice Ronald M. George presented the awards.

Pictured on these pages are the 12 winners of the Ralph N. Kleps Award for Improvement in the Administration of the Courts, the most prestigious honor the Judicial Council presents to courts (see Court News, November–December 1997, "12 Court Programs Win Prestigious Kleps Award); the three recipients of the Judicial Council Distinguished Service Awards, the council's highest individual award (see Court News, November–December 1997, "Judicial Council

Honors Governor, Jahr, Slater"); and two recipients of the Judicial Council's Special Recognition Award who were honored for their roles in the passage of the landmark Lockyer-Isenberg Trial Court Funding Act of 1997.

Other honorees were the San Diego County Superior Court and the Sacramento Superior and Municipal Courts, who were recipients of the second annual Chief Justice's Special Recognition Award (see Court News, November–December 1997, "Chief Justice's Award Honors San Diego, Sacramento Projects").



San Bernardino Superior and Municipal Courts—Forms Automation Program: Executive Officer Tressa Sloan Kentner, Presiding Judge John W. Kennedy, Jr., and Court Administration Manager Wendy Sellnow.

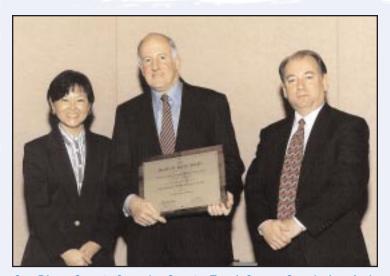


Shasta County Courts—Addicted Offender Program: Assistant Court Executive Officer Melissa Fowler-Bradley and Presiding Judge Wilson Curle.

#### Photos: Wei Chang



Santa Clara County Superior Court Family Division—Family Court and Family Court Services Comprehensive Program of Intervention: Presiding Judge Leslie C. Nichols, Judge Leonard P. Edwards, Family Court Services Director Sandra Clark, County Clerk/Court Executive Officer Stephen V. Love, and Family Court Services Assistant Director Steve Baron.



San Diego County Superior Court—Touch Screen Case Index: Assistant Executive Officer Pat Sweeten and Executive Officer Kenneth Martone.



Ventura County Superior and Municipal Coordinated Courts— Interactive Take Home Traffic School: Presiding Judge Charles W. Campbell, Jr., Executive Officer Sheila Gonzalez, and Vice President D. Michael Curran, U.S. Interactive.



Los Angeles Municipal Court—Implementation of Trial Court Performance Standards: 1997 Presiding Judge Mel Red Recana and Court Administrator Frederick K. Ohlrich.

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## Champions Honored Continued from page 13



Los Angeles County Superior Court and the Administratively Unified Courts—Los Angeles Superior Court Summer Youth Mentoring Program: Executive Officer John A. Clarke.



Placer County Superior and Municipal Courts—Peer Court: Peer Court Coordinator Karen Green and Superior Court Judge J. Richard Couzens.



South Orange Municipal Court—Domestic Violence Temporary Restraining Orders: Court Administrator Joyce Ziegler.



Los Angeles County Superior Court and the Administratively Unified Courts—"The Constitutional Rights of the Big Bad Wolf": Criminal Operations Division Chief Judy Pieper, Public Information Officer Jerrianne Hayslett, Judge Lance A. Ito, Judge Jaime R. Corral, and Executive Officer John A. Clarke.



The Four Municipal Courts of San Diego County: El Cajon, North County, San Diego, and South Bay—Court Customer Service Training Program: Court Administrator Frederick W. Lear, El Cajon Municipal Court; Staff Development Coordinator Nielson Archibald, South Bay Municipal Court; Court Administrator Sharon Lear, North County Municipal Court; Training Officer Tish Grabski, San Diego Municipal Court; Presiding Judge Victor E. Bianchini, El Cajon Municipal Court; Presiding Judge John L. Davidson, San Diego Municipal Court; and Court Administrator D. Kent Pedersen, San Diego Municipal Court.



San Diego Municipal Court—Civil and Small Claims Automated Case Management System: Deputy Court Administrator Raymond E. Sorensen, 1997 Presiding Judge Michael B. Orfield, Application Development Team Supervising Deputy Clerk Nelda Morgan, Application Development Manager Hal White, Chief Information Officer James V. Snyder, 1998 Presiding Judge John L. Davidson, Court Administrator D. Kent Pedersen, and Application Development Team Senior Deputy Clerk Susie Viets.



Administrative Director of the Courts William C. Vickrey, far left, and Orange County Superior Court Presiding Judge Kathleen E. O'Leary, CJAC Planning Committee Chair, far right, joined Chief Justice George in congratulating the recipients of the Judicial Council's Distinguished Service Award: second from left, Orange County Superior Court Executive Officer Alan Slater, Judicial Administration Award; Shasta County Courts Judge Steven E. Jahr, Jurist of the Year; and Governor Pete Wilson, Bernard E. Witkin Amicus Curiae Award.



In accepting his award, Governor Pete Wilson expressed his appreciation and paid tribute to judges.



California State Association of Counties (CSAC) Executive Director Steven Szalay, center, was recognized for his personal contribution along with CSAC's coordinated efforts for the passage of the Lockyer-Isenberg Trial Court Funding Act of 1997. Chief Justice George and Administrative Director of the Courts Vickrey offered their congratulations and appreciation on behalf of the Judicial Council by presenting Szalay with the council's Special Recognition Award.

"I admire you [judges].... I hope you are deriving the satisfaction that you should for making a critically important difference, not just to the litigants before you, but more broadly, to belief in the rule of law and in democracy. Thank you very much. I am deeply, deeply honored to receive the Bernie Witkin Amicus Curiae Award."

-Governor Pete Wilson



Diane Cummmins, Deputy Director of the State Department of Finance, accepts the Judicial Council's Special Recognition Award for contributing her professional expertise and personal commitment to the success of the Lockyer-Isenberg Trial Court Funding Act of 1997.



The drizzle failed to dampen the spirits of participants in CJAC's first "Fun Run by George." Chief Justice George (no. 1) and Administrative Director of the Courts William C. Vickrey (no. 41) led the pack of eager sprinters, taking off at dawn.



Michael J. Bayne, Assistant Executive Officer of the Consolidated/Coordinated Superior and Municipal Courts of Riverside County, was recognized for coordinating the first "Fun Run by George" by the event's first-place winner.



# Calendar

#### **SAVE THESE DATES**

- MAY 13–15: The first statewide planning conference, "Courts and Their Communities: Local Planning and the Renewal of Public Trust and Confidence," will be held at the Westin Hotel in Long Beach.
- MAY 21: The Special Task Force on Court/Community Outreach will meet from 10 a.m. to 3 p.m. at the Hyatt Regency in Los Angeles.
- JUNE 23: The Special Task Force on Court/Community Outreach will meet from 10 a.m. to 3 p.m. at the Holiday Inn in Chico.

#### **JUDICIAL COUNCIL MEETINGS**

All Judicial Council business meetings will be held at the Administrative Office of the Courts in San Francisco.

APR 24 JUNE 19 AUG 14 OCT 16 NOV 20

● Contact: Secretariat and Conference Services, 415-396-9347 (CALNET 8-531-9347), e-mail: jcservices@courtinfo.ca.gov.

#### **JUDICIAL EDUCATION**

APR 20–25 Appellate Courts Institute, Monterey

MAY 1-3 California Judges Association Mid-Year Meeting, Palm Springs

MAY 28-30 Cow County Judges Institute, Mt. Shasta

JUNE 14-26 B. E. Witkin Judicial College of California, Berkeley

#### **COMPUTER CLASSES**

Both sessions will be held at CJER's San Francisco offices.

APR 9-10 MAY 7-8

#### **ORIENTATION PROGRAMS**

Orientation programs for new trial court judges, commissioners, and referees are scheduled as follows:

APR 20–24 MAY 18–22

Note: Orientation sessions with insufficient enrollment will be canceled. Call CJER for the latest information.

• Contact: CJER, 415-356-6400 (CALNET 8-531-6400).

#### **ADMINISTRATIVE EDUCATION**

APR 14–15 Court Budgeting, Westgate Hotel, San Diego

APR 23–24 Appellate Management Institute, Westgate Hotel, San Diego

APR 30-MAY 1 Court Budgeting, Red Lion Sacramento Inn, Sacramento

APR 30–MAY 1 Northern Regional Mid-Level Management Conference, Holiday Inn,

Chico

MAY 18–20 "Building Effective Management Teams," Oakland Marriott City

Center, Oakland

• Contact: Administrative Education, 415-356-6400 (CALNET 8-531-6400).

## **COURT NEWS**

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